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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/124,043	07/29/1998	JOHN S. HENDRICKS	SEDN/5212	6239

56015 7590 09/11/2006

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT PAPER NUMBER

2623

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/124,043

Applicant(s)

HENDRICKS ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,24,27,32-51 and 53-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 51 is/are allowed.
- 6) ☐ Claim(s) 23, 24, 27, 32-50 and 59 is/are rejected.
- 7) ☒ Claim(s) 53-58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant traverses the Official Notices taken in the previous office action (page 17).

The Examiner relied upon U.S. Patent to teach the use of an RF demodulator for receiving upstream data transmissions from the set top terminals. The Examiner notes this patent was filed **15 years prior** to applicant's filing date of the present application.

The Examiner relies upon U.S. Patent 4,750,109 to Kita for support for CSMA/CD protocol. The Examiner notes this patent was filed **14 years prior** to applicant's filing date of the present application.

The Examiner relies upon U.S. Patent 5,307,485 to Bordonaro for support for sorting a list from highest to lowest.

Claim Objections

2. Claims 53-58 objected to because of the following informalities: Claims 53-58 are dependent on canceled claim 52. The Examiner has examined them as though they were dependant on claim 51. Appropriate correction is required.

Allowable Subject Matter

3 The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose nor reasonably suggest a processor as disclose in claim 51, which includes means for creating terminal group information indicating group assignments for the terminals by correlating the programs watched counts with categories of data, wherein the data categories include demographic data, wherein the data categories are available for providing programming to the terminals.

Claim 51 is allowed.

The Examiner notes that claims 53-58, would be allowable as further dependants of claim 51, however claim 53 is dependent on claim 52, which has been canceled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23, 24, 27, 39-51, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,003,384 to Durden in view of U.S. Patent 4,745,549 to Hashimoto.

Regarding claim 23, Durden discloses an apparatus that gathers programs watched data comprising:

a plurality of terminals (15) connected to televisions and a program delivery system (5,6,8,10), each terminal including a memory (21) that stores program access information (pay-per-view event information, col. 6, lines 48-65); and

a receiver (18) coupled to the plurality of terminals, the receiver receiving the program access information, wherein the program access information is stored as program watched data (col. 9, lines 7-54).

Durden fails to disclose if the programs watched data is recorded of counts, the counts corresponding to the number of times a program category is watched at the associated terminal, means for creating terminal group information indicating group assignments for the terminals using the programs watched counts and means for transmitting the terminal group information to the terminals in a control information screen.

Hashimoto discloses a coefficient $P_c(j)$ which corresponds to the number of complaints regarding a program which is reflected by how often (the number of times) a given user watches a certain type of programming at specific terminal, this number is then aggregated for a number of terminals (column 6, lines 44-60, column 7, lines 10-

25), thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of Hashimoto, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and Hashimoto fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched counts and means for transmitting the terminal group information to the terminals in a control information screen.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

Regarding claim 24, Durden discloses an apparatus that gathers programs watched data comprising:

a plurality of terminals (15) connected to televisions and a program delivery system (5,6,8,10), each terminal including a memory (21) that stores program access information (pay-per-view event information, col. 6, lines 48-65); and

a receiver (18) coupled to the plurality of terminals, the receiver receiving the program access information, wherein the program access information is stored as program watched data (col. 9, lines 7-54)

wherein the programs watched data is stored in a program watched matrix (column 9, lines 7-30, the data consist of two data points, thus forming a matrix), each terminal has its own matrix stored in volatile memory.

Durden fails to disclose a plurality of databases which include information from programs watched matrices, the information including terminal address group identifier and program counts, and viewer profile information and means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen.

.Hashimoto discloses a coefficient $P_c(j)$ which corresponds to the number of complaints regarding a program which is reflected by how often (the number of times) a given user watches a certain type of programming at specific terminal, this number is then aggregated for a number of terminals (column 6, lines 44-60, column 7, lines 10-25), the databases include profile information (column 8, line 57, individual questionnaire result, a plurality of databases include a subscriber ID which corresponds to a terminal address, a group identifier which corresponds to a age group, column 3,

lines 1-8), thus aiding a program provider in determining how popular a type of programming is amongst a given audience, and aiding in determining when to air programming.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of Hashimoto, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and Hashimoto fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

Regarding claim 27, Durden discloses an apparatus that gathers programs watched data comprising:

a plurality of terminals (15) connected to televisions and a program delivery system (5,6,8,10), each terminal including a memory (21) that stores program access information (pay-per-view event information, col. 6, lines 48-65); and

a receiver (18) coupled to the plurality of terminals, the receiver receiving the program access information, wherein the program access information is stored as program watched data (col. 9, lines 7-54)

wherein the programs watched data is stored in a program watched matrix (column 9, lines 7-30, the data consist of two data points, thus forming a matrix), each terminal has its own matrix stored in volatile memory

a controller 10 is coupled to a plurality of terminals 15, the controller issuing a message directing each of the terminals to provide the program access information (PPV programs ordered for billing purposes), where in the message is a polling request message (the message determines when the terminal is to dial into the headend to provide the information, the message is sent over a cable line, and the message is returned via telephone (column 8, line 24-column 9, line 30)).

Durden fails to disclose if the response message includes a leading and trailing flag, an address field including the address of the terminal, a geographical region, terminal identifier, and means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen.

Hashimoto discloses a questionnaire which is returned to a headend and includes the an address identifying a subscriber (column 8, lines 56-58, subscriber list and individual questionnaire result, as results are broken down by individual, the address and ID of each terminal must be recognized in order to determine which results belong to which corresponding subscriber), a subscriber region designation (column 3, lines 8-13, column 4, lines 29-33, questions specific to Japan), this information is utilized to determine when to display programs based on user interest (column 6, lines 44-60, column 7, lines 10-25).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of Hashimoto, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and Hashimoto fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize the assignment

features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

Regarding claim 39, see claim 32, additionally, Hashimoto discloses that results are arranged by program category and time in figure 8 and in column 4, line 60-column 6, line 17). Further The combination of Durden and Hashimoto fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

Regarding claim 40, Durden discloses means 18 for extracting data from an information field of a program control information signal, where the extruded data includes program information (column 9, lines 12-27, 47-50),

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Means for creating a polling request message 10 (column 9, lines 14-18) that directs a STB to initiate transmission of a STB status report,

Means for processing 8 for processing the received data to produce polling response data (column 9, lines 14-30, the data is used to bill a subscriber, column 4, lines 48-67),

Means for integrating 8 for integrating the response data with the extruded data from the information field of the program control information signal (column 9, lines 14-30, the number of IPPV events a user watches is utilized to bill a subscriber, column 4, lines 48-67),

Regarding claims 41, Durden discloses control receiving means 18 for demodulating the received STB status reports (column 7, lines 33-36, column 9, lines 31-34, processor 18 is connected to a number of phone lines),

means 18 for reading data from an information field of a program status report, where the extruded data includes program information (column 9, lines 12-27, 47-50),

temporary memory for accumulating the information fields for the STB, where the accumulated information produces the polling response data (column 9, lines 42-45, 61-65, the polling data is stored in memory prior to transmission).

Hashimoto is relied upon to teach sorting the polling response data (column 8, lines 55-66).

Regarding claim 42, Durden discloses means (column 6, line 60-column 7, line 5)for reading the programs watched counts, the counts are assigned to different times of the day for a program category (figure 8).

The combination of Durden and Hashimoto fails to disclose sorting the programs watched counts from highest to lowest.

The examiner takes official notice that sorting a database value from highest to lowest is notoriously well known in the art, for example in a Lotus 123. Sorting by high to low allows a user to readily recognize the best performing entry.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden and Hashimoto to sort from highest to lowest, thus making it easy for a user to identify the best performing entry.

Regarding claim 43, see claims 39 and 42.

Regarding claim 44, Durden discloses means 18 for extracting data from an information field of a program control information signal, where the extruded data includes program information (column 9, lines 12-27, 47-50),

Means for creating a polling request message 10 (column 9, lines 14-18) that directs a STB to initiate transmission of a STB status report,

Means for processing 8 for processing the received data to produce polling response data (column 9, lines 14-30, the data is used to bill a subscriber, column 4, lines 48-67),

Means for integrating 8 for integrating the response data with the extruded data from the information field of the program control information signal (column 9, lines 14-30, the number of IPPV events a user watches is utilized to bill a subscriber, column 4, lines 48-67).

Regarding claim 45, Durden discloses in figure 1, that the processing means and database are linked, the polling response data is stored in the database and updated (column 7, lines 31-40, billing information is updated for the programs a user views).

Regarding claim 46, Durden discloses the polling information may be transmitted via a telephone.

The combination of Durden and Hashimoto fails to disclose transmitting the information via CSMA/CD protocol.

The examiner takes official notice that CSMA/CD is notoriously well known in the art. CSMA/CD prevents collisions of data, thus enabling two networked devices to communicate.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize CSMA/CD in order to prevent collisions and ensure that data is received.

Regarding claims 47, Durden discloses the use of a telephone return pathway.

The combination of Durden and Hashimoto fails to disclose the use of an RF demodulator.

The examiner takes official notice that the use of an RF demodulator on a return path is notoriously well known in the art. An RF demodulator on a return path allows a user to transmit commands to the headend without having to utilize a telephone and paying the associated fees with a telephone service.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize an RF demodulator on a return path, thus enabling a user to transmit upstream commands without a telephone.

Regarding claim 48, Durden discloses a telephone may used to receive data transmissions from a user (column 7, lines 37-39).

Regarding claims 49-50, see the discussion of claims 32-33 in conjunction with 39.

Regarding claim 59 see claim 39.

5. Claims 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,003,384 to Durden in view of U.S. Patent 4,745,549 to Hashimoto.

Regarding claim 32, Durden discloses a system that gathers programs watched data in a TV delivery system, comprising:

Means 10 for gathering programs watched data from one or more terminals 15 in a broadcast delivery system (column 8, lines 24-34, column 9, lines 14-20)

A database 19 that stores the gathered programs watched data (column 9, lines 24-27),

Means for counting 20 for counting the programs watched by a terminal and arranged in a matrix (column 9, lines 7-30),

Means for transmitting 10 the STB group information to the set top terminal in a control information stream that instructs the STB in selecting videos to display (column 9, line 66-column 10, line 17).

Durden fails to disclose counts corresponding to the number of times a program is watched, group assignment information that correlates counts with categories of videos, which may be sent to a terminal.

Hashimoto discloses a coefficient $P_c(j)$ which corresponds to the number of complaints regarding a program which is reflected by how often (the number of times) a given user watches a certain type of programming at specific terminal, this number is then aggregated for a number of terminals (column 6, lines 44-60, column 7, lines 10-

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25), the databases include group information (column 3, lines 1-7, age group, column 8, line 57) thus aiding a program provider in determining how popular a type of programming is amongst a given audience, and aiding in determining when to air programming.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of Hashimoto, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

Regarding claim 33, Durden discloses means 18 for extracting data from an information field of a program control information signal, where the extruded data includes program information (column 9, lines 12-27, 47-50),

Means for creating a polling request message 10 (column 9, lines 14-18) that directs a STB to initiate transmission of a STB status report,

Means for processing 8 for processing the received data to produce polling response data (column 9, lines 14-30, the data is used to bill a subscriber, column 4, lines 48-67),

Means for integrating 8 for integrating the response data with the extruded data from the information field of the program control information signal (column 9, lines 14-30, the number of IPPV events a user watches is utilized to bill a subscriber, column 4, lines 48-67).

Regarding claim 34, Durden discloses means 8 for reading data files using the access means , wherein the database files are relationally keyed to one another through STB id numbers (column 6, lines 43-61, the ID is utilized to bill and authorize a user)

Means for formatting 10 the polling request message where the mess includes at least one STB id number (column 6, lines 48-52),

Means for enabling 10 at least one polling command bit in the formatted polling request message, wherein the enabled polling command bit commands transmission of the STB terminal status report (column 6, lines 47-61).

Regarding claim 35, Durden discloses control receiving means 18 for demodulating the received STB status reports (column 7, lines 33-36, column 9, lines 31-34, processor 18 is connected to a number of phone lines),

means 18 for reading data from an information field of a program status report, where the extruded data includes program information (column 9, lines 12-27, 47-50),

temporary memory for accumulating the information fields for the STB, where the accumulated information produces the polling response data (column 9, lines 42-45, 61-65, the polling data is stored in memory prior to transmission).

Hashimoto is relied upon to teach sorting the polling response data (column 8, lines 55-66).

Regarding claim 36 Durden discloses in figure 1, that the processing means and database are linked, the polling response data is stored in the database and updated (column 7, lines 31-40, billing information is updated for the programs a user views).

Regarding claim 37, Durden discloses the use of a telephone return pathway.

The combination of Durden and Hashimoto fails to disclose the use of an RF demodulator.

The examiner takes official notice that the use of an RF demodulator on a return path is notoriously well known in the art. An RF demodulator on a return path allows a user to transmit commands to the headend without having to utilize a telephone and paying the associated fees with a telephone service.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and Hashimoto to utilize an RF demodulator on a return path, thus enabling a user to transmit upstream commands without a telephone.


Regarding claim 38, Durden discloses a telephone may used to receive data transmissions from a user (column 7, lines 37-39).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


HBL
Hunter Lonsberry
Patent Examiner Art Unit 2623